

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 28773 of 1997

Between:

Khalilwadi School Ground Protection Committee Nizamabad
rep. by A. Ravinder, Dist. President of Progressive Democratic

Students Union, a member organisation of the committee

..... PETITIONER

AND

- 1 The Municipal Council, Nizamabad rep. by Chairman
Municipality, Nizamabad
- 2 The Commissioner Nizamabad Municipality,
Nizamabad
- 3 The Regional Deputy. Director Town Planning Division
Govt. of A.P. Hyderabad
- 4 Govt. of A.P.rep. by Secretary
Education Dept., Secretariat,
Hyderabad

(Dismissed for default against R-4 as per court order Dt.31/8/2000)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st Respondent in resolving through Resolution No. 190, dated 25/08/1995 to lay 80' road from Godown road to Rashtrapathi Road, Nizamabad through Khaliwadi School Premises as illegal, arbitrary and unconstitutional apart from being violative of principles of natural justice and against the public interest and the master plan of Nizamabad town, further declare the consequential approval of the 3rd Respondent through letter No. 1831/95, HROH-II, dated 25/03/1997 and 1831/95, HROHD, dated 31/05/1997 permitting the 1st Respondent to lay 60' road as illegal, arbitrary and unconstitutional apart from being violative of principles of natural justice and against public interest and further declare the consequential resolution of the 1st

Respondent No.176, dated 30/09/1997 resolving to lay 60' road from Godown Road to Rashtrapathi Road, Nizamabad through Khalilwadi School premises as illegal, arbitrary and unconstitutional apart from being violative of principles of natural justice and against the master plan of Nizamabad town and consequently direct the respondents not to lay 60' road from Godown Road to RP Road through Khalilwadi school premises, Nizamabad.

Counsel for the Petitioner: MR.NANDIGAM KRISHANA RAO

Counsel for the Respondents: MR POLISETTI RADHAKRISHNA

The Court made the following:

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the resolution No.190, dated 25.08.1995, passed by the first respondent proposing to lay 80 feet road from Godown road to Rashtrapathi Road, Nizamabad, through Khalilwadi School Premises, which was approved by the third respondent through his letters and the consequential resolution No.176, dated 30.09.1997, passed by the first respondent for laying the said road as illegal, arbitrary and against the master plan of Nizamabad town and further, to direct the respondents not to lay the said road.

The succinct facts of the case are as follows:

Khalilwadi school is the oldest school in Nizamabad and the petitioner-Committee is formed to protect the ground of the said school. It is submitted that more than 50% of the school land was taken by the Government and a bus-stand was constructed within the premises of the school ground besides using the school premises for recreation purposes such as sports, place of meetings, exhibition, etc. Further, it is alleged that the proposal to lay a road from Godown road to Rashtrapathi road passing in between the school and the bus-stand was approved in the master plan of Nizamabad town.

While so, the first respondent with an intention to benefit the business community by enabling them to construct shopping complex in the private areas opposite to the school premises, ignored the above said master plan and passed the resolution proposing to lay the said road through Khalilwadi school premises and the same was approved by the third respondent. Based on the said approval, the first respondent again through his resolution No.176, dated 30.09.1997, resolved to lay the said road.

The grievance of the petitioner is that if the said road is laid, more than half of the remaining school ground will be merged into the road and the school children will be deprived of their right to use the playground. That apart, because of the vehicular traffic, there will be lot of disturbance to the children due to air and noise pollution. In spite of protest from various organizations and people for laying the said road, the respondents are determined to lay the same. On 24.10.1997, the first and second respondents came over to the school premises and earmarked the place to lay the proposed road. Further, the petitioner-Committee apprehends that the proposed road may be laid by dismantling the compound wall of the school building, which causes great inconvenience to the students and the public at large. Hence, the present writ petition.

Learned counsel for the petitioner reiterated the averments made in the affidavit filed in support of the writ petition.

Learned standing counsel for municipality appearing for the respondents submits that the resolution, dated 25.08.1995, to lay the said 80 feet road through the school premises of Khalilwadi School ground is under reconsideration by the municipality itself.

In view of the said submission of the learned standing counsel

that the issue regarding the laying of the said road is under reconsideration by the municipality, I am of the view that no further orders are required to be passed in the writ petition. It is also made clear that after reconsideration of the matter, if the petitioner-Committee is still aggrieved, it is at liberty to challenge such action or proceedings before the appropriate forum.

With the above observation, the writ petition is disposed of. No order as to costs.

06.04.2005

dr/tvk

To

- 1 The Chairman, Municipal Council, Nizamabad
Municipality, Nizamabad
- 2 The Commissioner, Nizamabad Municipality,
Nizamabad
- 3 The Regional Deputy, Director Town Planning Division,
Govt of A.P. Hyderabad
- 4 The Secretary, Govt. of A.P.,
Education Dept., Secretariat,
- 5 2 CD copies
- 6 1 CC to MR.POLISETTI RADHAKRISHNA (SC FOR MPL)